IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 11226 of 2007(J)

PETITIONER:

M/S.HOTEL SABRINA,PERINTHALMANNA,
REPRESENTED BY P.NARAYANAN,MANAGING PARTNER.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V.MENON
SMT. V.MEERA MENON

RESPONDENTS:

SALES TAX OFFICER,
PERINTHALMANNA.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1; COPY OF ASSESSMENT ORDER FOR 92-93 (KGST) PASSED BY THE RESPONDENT DATED. 08/03/1996.

EXT.P2; COPY OF ORDER IN STA.547/96 PASSED BY APPELLATE ASST.COMMISSIONER, KOZHIKODE DATED. 10/02/1997.

EXT.P3: COPY OF THE ORDER IN T.A.NO.240/97 PASSED BY THE APPELLATE TRIBUNAL DTD. 19/02/2002.

EXT.P4: COPY OF JUDGMENT IN STREV.380/04 PASSED BY THIS HON'BLE COURT DATED. 24/08/2006.

EXT.P5: COPY OF THE ASSESSMENT ORDER FOR 92-93 ISSUED BY THE RESPONDENT DTD. 09/02/2007.

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR,J.

WP(C)NO.11226 OF 2007-T

Judgment

The petitioner was aggrieved by Ext.P1 assessment order of KGST for the year 1992-93. He filed an appeal before the appellate authority. By Ext.P2 Judgment, the appellate authority granted substantial relief to the petitioner. The Revenue filed an appeal before the tribunal. The same was dismissed by the tribunal. The revenue filed ST Revision NO.380/04 before this Court. In the revision, the Revenue challenged only one point, i.e., regarding the exemption granted in relation to articles purchased for preparing food in terms of SRO No.363/92. This Court allowed the revision and upheld the contention of the Revenue on that point. But, while passing the order, this Court ordered that the revision is allowed and the assessment order is restored. In fact, the availability of the exemption under the above said SRO alone was disputed before this Court. But, relying on the above direction in the tax revision case, the assessing authority restored the assessment order and raised a demand for payment of the amount under it. Hence this Writ Petition, seeking appropriate reliefs. The learned counsel for the petitioner, at the time of hearing of the Writ Petition, handed over a clarification issued by the Division Bench of this Court in the above said tax revision case, to the effect that the Judgment only dealt with the point raised by the Government concerning the exemption available under the aforementioned SRO. In view of the said clarification, the petitioner may move the assessing authority and ask it to rectify the mistake in Ext.P5. If a rectification

petition is received within ten days from today, the assessing authority shall revise Ext.P4, taking note of the above clarification of the Division Bench of this Court within one month from the date of receipt of a copy of this Judgment. It is ordered that further recovery pursuant to Ext.P5 will be kept in abeyance for a period of two months from today.

The Writ Petition is disposed of as above.

30.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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